IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.649 OF 2006
IN
WRIT PETITION NO.2738 OF 1994

ALONG WITH

WRIT PETITION NO.2738 OF 1994

A.B.Kasbekar & Anr. ...Petitioners.

Versus

The Charity Commissioner
Maharashtra State & 8 Ors. ...Respondents.

....

ALONG WITH
NOTICE OF MOTION NO.588 OF 2006
IN
WRIT PETITION NO.2738 OF 1994

A.B.Kasbekar & Anr. ...Petitioners.

Versus

The Charity Commissioner
Maharashtra State & 8 Ors. ...Respondents.

And

Deepak Girdharilal Matai ...Intervenor.

....

Mr.V.S.Lonkar, Advocate for the Petitioners.
Mr.S.U.Kamdar with G.S.Pikale i/b.S.V.Pikale & Co., Advocate for Respondent Nos.2 to 8.
Mr.B.Shroff, A.G.P. for Respondent No.1-State.
Mr.Mahendra Rathod i/b. Sunil & Co., Advocate for Respondent No.9.

....

CORAM : **DR.S.RADHAKRISHNAN AND SMT.V.K.TAHILRAMANI,JJ.**

DATED : **DECEMBER 15, 2006.**

P.C.:

1. Heard the learned counsel for the petitioners and the respondents. By this Notice of Motion, the petitioners are seeking recall of our order dated 6th November, 2006 whereby the above Petition was dismissed in default.

2. Respondent Nos.2 to 8 have filed an affidavit of respondent No.2 dated 8th December, 2006 categorically mentioning that the agreement for sale in favour of respondent No.9 has already been revoked and cancelled. In view thereof the learned counsel for respondent Nos.2 to 8 pointed out that the order of the learned Charity Commissioner granting sanction of the proposed sale does not survive any longer. By this Petition the petitioners have challenged the said sanction granted by the learned Charity

Commissioner.

3. Perused the affidavit in support of the Motion. Sufficient cause is made out for recall of our order dated 6th November, 2006. There is no case of inaction, negligence or want of bonafides. In view thereof the Notice of Motion is made absolute in terms of prayer clause (a). Writ Petition is restored on file.

4. In view of the fact that the aforesaid agreement for sale itself has been terminated, the order of the learned Charity Commissioner sanctioning the proposed sale does not survive. Hence, Petition also has become academic. Hence, Rule stands discharged.

5. In view of the dismissal of the Petition, Notice of Motion No.588 of 2006 also does not survive, hence the same is also disposed of.

[DR.S.RADHAKRISHNAN,J.]

[SMT.V.K.TAHILRAMANI,J.]